

REMARKS

Applicant has carefully reviewed the Office Action mailed May 14, 2004, and offers the following remarks to accompany the above amendments. Applicant's telephonic interview of July 15, 2004 with Examiner Shin was unproductive. Where appropriate, Applicant provides comments from the interview, said comments serving as the interview summary. Applicant endeavored to schedule a follow-up telephonic interview with signatory Examiner Barron, but was unable to schedule such before the due date of the present response. In the event that such a telephonic interview is arranged, Applicant will supplement the present remarks with remarks from the follow-up interview.

Applicant initially cancels claims 15-19 and 30-32. Applicant does so to simplify issues and without admitting the propriety of the rejection thereof. Applicant amends claim 5 to clarify that the authorization indicia is included in the request. No new matter is added.

Before addressing the rejection, Applicant provides a brief summary of the present invention, as well as an analysis of Eriksson et al. so that the remarks relating to the rejection are considered in the proper context. The present invention is directed to a situation where a service provider needs to authorize communication across a packet network, but does not know precisely what network elements will be used to effectuate the communication. To effectuate a communication channel setup, the present invention has the service provider generate authentication indicia. The authorization indicia is then sent to either the origination or the destination terminal of the call being set up. The origination or the destination terminal then resends the just received authorization indicia to the network elements that will set up the communication channel.

In contrast, Eriksson et al. has a service or network provider with whom the caller may contract (see Eriksson et al., col. 2, lines 59-65), and when the caller wishes to initiate a communication transmission, the caller generates a resource reservation request at terminal A, which is sent to the network. The various elements of the network verify the contents of the resource reservation request to determine if it meets their admission control (see col. 3, lines 11-13 and 21-35). However, the resource reservation request does not include the traffic contract, nor is the resource reservation request sent to the origination or destination terminal and then resent from the origination or destination terminal to the network elements.

Claims 1-36 were rejected under 35 U.S.C. § 102(e) as being anticipated by Eriksson et al (hereinafter referred to as "Eriksson"). Applicant respectfully traverses. For the Patent Office to prove anticipation, the Patent Office must show each and every element of claim in the reference. Further, the elements of the reference must be arranged as claimed. MPEP § 2131.

The present invention is not shown by Eriksson because Eriksson does not show the originating or destination terminal receiving the authorization indicia and then sending the authorization indicia to the network elements to reserve resources for a portion of the communication. Specifically, claim 1 recites "sending the authorization indicia to at least one of the originating and destination terminals to facilitate reservation of resources for the communication, wherein the at least one of the originating and destination terminals receiving the authorization indicia will send the authorization indicia to at least one network element to reserve resources for at least a portion of the communication." Thus, the claim indicates that one of the originating and destination terminals receives the authorization indicia and then resends the authorization indicia to a network element to reserve resources. This is not shown by the Eriksson. Rather, Eriksson shows that the origination terminal creates the authorization indicia and sends it such that the resources are reserved *en route*. However, Eriksson's origination terminal does not receive the authorization indicia; Eriksson's origination terminal creates the authorization indicia. In no case does Eriksson's destination terminal send authorization indicia to any network element. See, for example, Eriksson, col. 1, lines 54-56, wherein Eriksson states "the relevant information is transmitted by the user with the data transmission, and can be extracted by the network as required." Furthermore, see Eriksson, col. 3, lines 3-5, wherein a user makes a resource reservation request which is sent from the first terminal to an access router which determines whether the resource reservation request passes the admission control. Each of the messages must contain all information which is necessary to allow network nodes to perform admission control and policing the transmission as required (col. 3, lines 21-25). In no case does the origination terminal of Eriksson receive the authorization indicia and then send it to a network element to reserve resources. Rather, the origination terminal generates the authorization indicia and sends it to the access router to reserve resources as the message passes through the network.

The Patent Office, in the Office Action, opines that the generation of the authorization indicia is shown at Eriksson, col. 3, lines 6-10. The cited passage describes the resource

reservation request, which is generated by the user's terminal A (see col. 3, lines 3-6). The Patent Office then quotes element c of claim 1 and states that this is shown at Eriksson, col. 3, lines 31-35. Applicant traverses this assertion. Eriksson, col. 3, lines 31-35 describes how admission control is performed by a node within the network, acting upon the resource reservation request generated by the user's terminal A. As noted above, the resource reservation request does not use authorization indicia that was originally sent to the origination terminal (or the destination terminal). To this extent, the cited passage does not teach the element for which it is cited.

Applicant submitted an interview agenda to Examiner Shin requesting clarification as to how the cited passage showed element c of claim 1, pointing out that the reference lacked the two step sending process recited in the claim. During the telephonic interview, Applicant explained in greater detail how the claim captured the two stage sending process concept and reiterated that the reference did not appear to show this two stage sending process. The Examiner stated, "Well, in general, we don't argue our point on the phone. I am right and the that way you're looking at it is not right or the differences so, I will take your issues or point when you write an amendment." Applicant responded with another request for clarification, not necessarily an argument about the contents of the reference. The Examiner refused to provide any clarification stating that an amendment would be required and that the Office Action fully stated the Examiner's position. Applicant notes that MPEP § 713.01(III) instructs "the examiner attempt to identify issues and resolve differences during the interview as much as possible." It was the failure of this interview to provide any further clarification to the Office Action which caused Applicant to call Examiner Barron to schedule a telephonic interview, but Examiner Barron did not return Applicant's call, so this response is provided without the benefit of any clarifications Examiner Barron might have provided.

Eriksson does not teach or suggest the two stage sending recited in claim 1. If the Patent Office wishes to clarify how the reference is being read to show the two stage sending of claim 1, Applicant requests that such clarification be made by way of a non-final rejection so that it may be fully addressed. Applicant notes that 37 C.F.R. § 1.104(c)(2) instructs the Examiner to clearly explain the pertinence of the references as well as the particular part relied on. See also MPEP § 707.

The Patent Office analyzes claims 20 and 33 with the same citations. As these claims likewise recite the two stage sending of claim 1, which is not shown by Eriksson, these claims are not anticipated at least for the same reasons. Since the Patent Office has not shown how the claims are anticipated, the rejection is improper, and the claims are allowable. Applicant requests withdrawal of the § 102 rejection of claims 1, 20, and 33 at this time.

Claims 2-4, 21-23, and 34-36 depend from claims 1, 20, or 33, and are allowable at least for the same reasons.

Claim 5, as amended, recites that the request includes authorization indicia provided to the originating terminal by a service provider. The Patent Office opines that this is shown by Eriksson, col. 2, lines 59-65. Applicant traverses this assertion. The cited passage talks about the traffic contract between the service provider and the user, but the user does not use the traffic contract as the authorization indicia. Eriksson's authorization indicia is generated within the user's terminal A and then sent out as a resource reservation request. Since the element that the Patent Office identifies as the authorization indicia is not actually included in the request, the reference does not show all the claim elements arranged as claimed. Since the Patent Office has not shown the claim elements arranged as claimed, the Patent Office has not established anticipation and the claim is allowable.

Claims 6-8 depend from claim 5 and are not anticipated at least for the same reasons. Claim 6 deserves special mention in that the resource reservation request is received from both the originating and destination terminal. The Patent Office opines that this is shown by Eriksson, col. 3, lines 28-30. Applicant traverses this assertion. The cited passage indicates that the resource reservation request is sent across the Internet to terminal B and that each node analyzes the admission control. However, there is no indication that the destination terminal ever sends a resource reservation request as recited in the claim. To this extent, the claim recites an element not present in the reference and is not anticipated by the reference.

Claims 9 and 27 recite sending a request to a service provider and receiving authorization indicia in response to the request. The Patent Office opines that the request to the service provider is shown at col. 2, lines 59-65 and col. 3, lines 3-6. The Patent Office further opines that the reception of authorization indicia in response to the request is shown at col. 3, lines 11-13. Applicant traverses this assertion. Col. 2, lines 59-65 discusses the traffic contract. Col. 3, lines 3-6 discusses the resource reservation request. Col. 3, lines 11-13 discusses how the AR

router processes the resource reservation request. As discussed above, the resource reservation request does not include the traffic contract, nor is the resource reservation request received by the originating terminal in response to the request. Furthermore, the traffic contract is not received in response to the request. To this extent, the cited passages do not show the claim elements of a request to establish communication being sent to the service provider and receiving the authorization indicia in response to this request. Since the reference does not show the claim elements, the reference does not anticipate the claims.

Claims 10-14, 28, and 29 depend from claims 9 and 27, and are not anticipated at least for the same reasons.

Claim 24 recites a policy server that receives the request to approve reservation of resources from a router. The Patent Office opines that this element is shown at Eriksson, col. 4, lines 32-36. Applicant traverses this assertion. The cited passage actually confirms that the messaging claimed in claim 24 is not shown by the reference. Eriksson's routers make a decision as to whether to authorize the reservation of resources based on policy rules. Since Eriksson's routers are already informed of the policy rules, Eriksson's routers do not send requests for authorization. Since Eriksson's routers do not send such requests, there is no response to the requests sent from the policy server as recited in the claim. Since the reference does not show two claim elements, the reference does not anticipate the claim. Since the reference does not anticipate the claim, the claim is allowable.

Claims 25 and 26 depend from claim 24 and are allowable at least for the same reasons.

Applicant requests reconsideration of the rejection in light of the amendments and remarks presented herein. Eriksson does not teach or suggest the two stage sending process or the particular arrangement of messages recited in the claims. Applicant earnestly solicits claim allowance at the Examiner's earliest convenience.

Respectfully submitted,

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